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Human Rights Committee

Concluding observations on the third periodic report of Hong Kong, China

Addendum

Information received from Hong Kong, China, on follow-up to the concluding observations*

[Date received: 25 March 2014]

Introduction

1. Following consideration of the third periodic report of the Hong Kong Special Administrative Region (HKSAR) under the International Covenant on Civil and Political Rights (the Covenant) on 12 and 13 March 2013, the Human Rights Committee adopted concluding observations on 26 March 2013. In paragraph 26 thereof, the Committee specifically requested the HKSAR to "provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 6, 21 and 22."

2. Paragraphs 6, 21 and 22 of the concluding observations recommended that the HKSAR should:

Paragraph 6

Take all necessary measures to implement universal and equal suffrage in conformity with the Covenant as a matter of priority for all future elections. It should outline clear and detailed plans on how universal and equal suffrage might be instituted and ensure enjoyment by all its citizens, under the new electoral system, of the right to vote and to stand for election in compliance with article 25 of the Covenant, taking due account of the Committee's general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service. It is recommended to consider steps leading to withdrawing the reservation to article 25(b) of the Covenant;

* The present document is being issued without formal editing.

Paragraph 21

Adopt measures to ensure that all workers enjoy their basic rights, independently of their migrant status, and establish affordable and effective mechanisms to ensure that abusive employers are held accountable. It is also recommended to consider repealing the "two-weeks rule" (whereby domestic migrant workers have to leave Hong Kong within two weeks upon termination of contract) as well as the live-in requirement;

Paragraph 22

In light of the recommendation made by the Committee on the Elimination of Racial Discrimination, intensify its efforts to improve the quality of Chinese language education for ethnic minorities and non-Chinese speaking students with an immigrant background, in collaboration with the Equal Opportunities Commission and other groups concerned. The HKSAR should further intensify its efforts to encourage the integration of students of ethnic minorities in public school education.

3. In accordance with the Human Rights Committee's request for further information, the HKSAR's follow-up response to the above recommendations is set out as follows.

Response to paragraph 6 of the concluding observations

4. It is the common aspiration of the Central People's Government of the People's Republic of China (PRC), the HKSAR Government and the people of the HKSAR to successfully implement universal suffrage for the election of Chief Executive (CE) in 2017, in accordance with the Basic Law and the relevant interpretation and decisions of the Standing Committee of the National People's Congress of the PRC (NPCSC).

5. The HKSAR Government formally launched an extensive public consultation exercise on 4 December 2013 on the methods for selecting the CE in 2017 and for forming the Legislative Council (LegCo) in 2016. The consultation will last for five months until 3 May 2014.

6. The HKSAR Government will continue to solicit and listen to the views and proposals from different sectors of the community and the public at large. After the public consultation exercise, the HKSAR will summarise and consolidate the views received to facilitate the CE's report to the NPCSC to formally kick-start the constitutional process of amending the electoral methods.

Response to paragraph 21 of the concluding observations

7. The HKSAR Government attaches great importance to protecting the rights and interests of foreign domestic helpers (FDHs), who form an important component of the valuable workforce in the HKSAR. Similar to the local workers, all FDHs enjoy equal and full protection and entitlements under the Employment Ordinance (Cap. 57), including wage payment, maternity protection, rest days, statutory holidays, annual leave, long service payment, etc.

8. In addition to the statutory protection under the Employment Ordinance, all FDHs are also protected by a Government-prescribed Standard Employment Contract, under which they are entitled to the Minimum Allowable Wage, free food provision (or food allowance in lieu of), free passage to/from their places of domicile, free medical treatment and free accommodation with reasonable privacy, etc. An employer who wilfully and

without reasonable excuse underpays an FDH is liable to prosecution and, upon conviction, to a fine of HK$350,000 and to imprisonment for three years.

9. Same as the local workers, FDHs have full access to the Labour Department's free services, including, but not limited to, consultation and conciliation services to resolve disputes with their employers. If no settlement could be reached by conciliation, the cases will be referred to the Minor Employment Claims Adjudication Board or the Labour Tribunal for adjudication.

10. The main purpose of the "two-week rule" is to allow sufficient time for FDHs to prepare for their departure, not to facilitate their finding new employers. The "two-week rule" is of paramount importance in maintaining effective immigration control. It helps to prevent FDHs from job-hopping frequently and working illegally after contract termination.

11. The existing policy does not preclude FDHs from working in the HKSAR again after returning to their places of origin. Furthermore, the cost of the return flight is fully borne by the FDH employer, as stipulated under the Standard Employment Contract for employment of FDHs.

12. Appropriate flexibility is allowed under the existing policy. In exceptional circumstances, where the employer is unable to continue with the contract due, for example, to the employer's emigration, external transfer, death or economic difficulty, or where there is evidence showing that the FDH has been abused or exploited, the FDH may apply for change of employment in the HKSAR, without the need of first returning to his/her place of origin.

13. The "live-in requirement" forms the cornerstone of Hong Kong's policy of importing FDHs. As in many other jurisdictions, it has been the HKSAR Government's established policy that priority in employment should be given to the local workforce, and importation of workers should only be allowed where there is proven manpower shortage in specific trades that cannot be filled by local workers. In accordance with this policy, FDHs have been imported since the early 1970s to meet the acute shortfall in local live-in domestic workers in Hong Kong. The HKSAR Government considers it necessary to retain the "live-in requirement" for FDHs.

Response to paragraph 22 of the concluding observations

14. As announced by the CE in his Policy Address on 15 January 2014, starting from the 2014/15 school year, the HKSAR Government will allocate HK$200 million every year to step up support for non-Chinese speaking (NCS) students, notably ethnic minority students, to facilitate their effective learning of the Chinese language and to create an inclusive environment in schools. The series of comprehensive support measures include, among others, the provision of a "Chinese-language Curriculum Second Language Learning Framework" for NCS primary and secondary students, with supporting learning and teaching materials to facilitate their effective learning of Chinese as a second language. This is aimed at enabling them to transition to mainstream Chinese-language classes and an Applied Learning (Chinese language) subject at senior secondary levels, to be pegged at Levels 1 to 3 of the Qualifications Framework (QF) as an alternative qualification for NCS students, in order to enhance their employability. In tandem, the HKSAR Government will continue to subsidise NCS students sitting Chinese language examinations under the General Certificate of Secondary Education, International General Certificate of Secondary Education and General Certificate of Education. The results of these examinations are internationally recognised and have also been accepted as alternative Chinese language qualifications for consideration for admission to local post-secondary institutions and

universities. Vocational Chinese language courses recognised under the QF will also be developed for NCS school leavers.

15. To facilitate schools' implementation of the aforesaid Learning Framework, schools admitting NCS students will be provided with enhanced funding for monitoring and evaluation from the 2014/15 school year, with a view to supporting NCS students' transition to mainstream Chinese-language classes. Besides, the Professional Enhancement Grant Scheme will be launched in the first quarter of 2014 to enhance Chinese-language teachers' professional capability to teach Chinese as a second language. At the same time, more training courses and experience-sharing opportunities on teaching Chinese as a second language would be provided. On promotion of early adaptation, NCS parents are encouraged to let their children start learning Chinese at the pre-primary stage. Furthermore, there are district-based projects/programmes to motivate NCS students aged 3 to 9 to learn Chinese through fun activities. NCS parents are also encouraged to attend the Summer Bridging Programme with their children entering Primary 1, or progressing to Primary 2, 3 or 4.

16. Following the Policy Address, the general public responded positively towards the new initiatives. The HKSAR Government will continue to collect and listen to views of major stakeholders and liaise with the statutory Equal Opportunities Commission, with a view to refining the education support measures as necessary.